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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,179	01/08/2001	Dennis Boyle	PA1443US	8137

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EXAMINER

SELBY, GEVELL V

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/757,179		BOYLE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Gevell Selby		2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed June 15, 2005 have been fully considered but they are not persuasive. The applicant submits the prior art does not disclose the following limitations of the claimed invention:

- 1) a portable electronic device comprising "a memory for storing said image" and the image management engine capable of implementing a plurality of functions for capturing, managing, and viewing said images "as claimed in claims 8 and 20;
- 2) "providing one or more image control functions that execute an image management engine on said portable electronic device by selecting an icon presented on said display" as claimed in claim 19;
- 3) "managing the display of the image on the display screen constituent to the portable electronic device" as claimed in claim 1. The Examiner respectfully disagrees.

### **Examiner's Reply:**

Re claims 8 and 20) The Eck reference discloses a portable device comprising a memory (RAM 52) for storing said image (see column 4, lines 50-55), wherein the whole storage are can store an image the is greater than the display and the image management engine is capable of implementing a plurality of functions for capturing (see column 24, lines 24-26), managing (see Tanaka et al., 6,435,969, specification which is incorporated by reference to describe the digital camera cartridge) the different functions of the control program with such modes as camera shooting mode, shot image display mode, Hot Spots, image editing (game face), and Animation (see Tanaka specification and 14-19), and viewing said images (see column 4, lines 50-55).

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Re claim 19) The Eck reference does teach the image management engine as described above in regard to claim 8. The Reference discloses providing one or more image control functions (see column 9, lines 16-20 and column 12, lines 35-39: The engine captures images and uses the images as icon or persona characters in the email function) that execute an image management engine on said portable electronic device by selecting an icon (206) presented on said display (see column 11, lines 3-6 and 26-40: The icons are selected from the display for managing personas and image sent in messages).

Re claim 1) The Eck reference discloses managing the display of the image on the display screen constituent to the portable electronic device (see column 24, lines 24-26: It is inherent the image management program manages the display of the image by transferring the image data from the cartridge to the display memory in the electronic device and then displaying the image on the display; Tanaka et al., 6,435,969, specification, column 12, line 58 to column 13, line 4, which is incorporated by reference, to describe the management of the display).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 8-20 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Eck et al., US 6,716,103.**

In regard to claim 8, Eck et al., US 6,716,103, discloses a system for capturing and managing images, comprising:

an portable electronic device (see figure 2), further comprising:

a processor (see figure 2, element 30),

a display (see figure 2, element 16), for selectively displaying text, functional icons, and one or more live or stored images (see figures 8a-8h and column 10, line 55 to column 11, line 7), and

a memory (see figure 2, elements 34 and 52), for storing said images (see column 4, lines 50-55 and column 24, lines 24-26: It is inherent the computer saves the images in display memory in order to display the images on the LCD);

an image capture device (see figure 14) removably attached to said electronic device (see column 23, lines 36-41); and

an image management engine loaded into said memory (see column 10, line 65 to column 12, line 40), the image management engine is capable of implementing a plurality of functions for capturing (see column 24, lines 24-26), managing (see Tanaka et al., 6,435,969, specification which is incorporated by reference to describe the digital camera cartridge and the different functions of the control program with such modes as camera shooting mode, shot image display mode, Hot Spots, image editing (game face), and Animation (see Tanaka specification and 14-19), and viewing said images (see column 4, lines 50-55), the plurality of functions selectable from said functional icons presented on said display (see column 11, lines 3-6 and 26-40: It is inherent the image capture

program had a GUI interface screen with icons that activate its functions similar to the screen 200 for the pager program since both use the same operating system for a Game Boy ®).

In regard to claim 9, Eck et al., US 6,716,103, discloses the system of claim 8, wherein said electronic device further comprises a transmission source (see figure 3, element 100) for transmitting image data from said electronic device to a remote device (see column 9, lines 16-20).

In regard to claims 10, Eck et al., US 6,716,103, discloses the system of claim 9, wherein said transmission source is wireless (see column 6, lines 33-36).

In regard to claims 11, Eck et al., US 6,716,103, discloses the system of claim 10, wherein said transmission source is infrared (see column 19, lines 61-67).

In regard to claim 12, Eck et al., US 6,716,103, discloses the system of claim 8 wherein said image capture device is a digital camera (see column 23, lines 35-41).

In regard to claim 13 - 14, Eck et al., US 6,716,103, discloses the system of claim 8. The Eck reference discloses wherein the program is transferred from a ROM to the portable electronic device for execution (see column 24, lines 43-55 and column 3, line 55 to column 4, line 20: It is inherent the image control program is transferred to the CPU just as a game program in order to execute the program).

The Eck reference does not disclose that the ROM is a magnetic or optical medium.

The well known in the art statement in the Official Notice taken in the last office action that magnetic and optical mediums are used is ROMs, in order to be non-volatile

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storage to save the program when the camera is turned off is taken to be prior art because the applicant did not traverse the examiner's assertion.

It would have been obvious to a person skilled in the art, at the time of invention, to have been motivated to modify Eck et al., US 6,716,103, to have the program transferred from a magnetic medium or optical medium to the portable electronic device, in order to execute the program on the electronic device.

In regard to claim 15, Eck et al., US 6,716,103, as explained above discloses the system of claim 8 wherein said image capture device comprises an internal memory (see figure 17, element 345).

In regard to claim 16, Eck et al., US 6,716,103, as explained above discloses the system of claim 15 wherein said image management engine is pre-loaded in said internal memory of said image capture device (see column 24, lines 42-55).

In regard to claim 17, Eck et al., US 6,716,103, discloses the machine-readable medium of claim 16, wherein said image management engine is automatically downloaded and stored in said memory of said portable electronic device upon attachment of said image capture device to said portable electronic device (see column 24, lines 43-55 and column 3, line 55 to column 4, line 20: It is inherent the image control program is transferred to the CPU just as a game program in order to execute the program and is stored to in the CPU working memory as necessary during processing).

In regard to claim 18, Eck et al., US 6,716,103, discloses the system of claim 8 wherein said image management engine presents one or more graphical user interface icons on said display of said electronic device to facilitate management of images (see

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column , lines 3-6 and 25-40 and column 12, lines 5-15: There are icons for managing the sending of images in messages).

In regard to claim 19, Eck et al., US 6,716,103, discloses a method for managing live images on an electronic device, comprising:

providing a display for viewing said images on said portable electronic device (see column 24, lines 24-26);

providing a camera for capturing said images (see column 23, lines 36-41); and

providing one or more image control functions (see column 9, lines 16-20 and column 12, lines 35-39: The engine captures images and uses the images as icon or persona characters in the email function) that execute an image management engine on said portable electronic device by selecting an icon (206) presented on said display and the icon representing said image control program (see column 11, lines 3-6 and 26-40: The icons are selected from the display for managing personas and the program retrieves the image to send in messages; see Tanaka et al., 6,435,969, specification which is incorporated by reference to describe the digital camera cartridge and the different functions of the control program with such modes as camera shooting mode, shot image display mode, Hot Spots, image editing (game face), and Animation (see Tanaka specification and 14-19); It is inherent the image capture program had a GUI interface screen with icons that activate its functions similar to the screen 200 for the pager program since both use the same operating system for a Game Boy ®).

In regard to claim 20, Eck et al., US 6,716,103, discloses the method of claim 19 further comprising the step of providing a memory (see figure 2, element 52) within said portable electronic device to store said image after capturing (see column 4, lines 50-55 and column 24, lines 24-26).

In regard to claim 24, Eck et al., US 6,716,103, discloses the method of claim 19 further comprising the step of providing a transmission source for transmitting selected image data to a remote device after capturing (see column 9, line 16-20).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016.**

In regard to claim 1, Eck et al., US 6,716,103, discloses a machine-readable medium (see figure 17, element 300) comprising

an image management program (see column 24, lines 42-45), the program being executable by a portable electronic device coupled to an image capture device to perform method steps for capturing, controlling and managing an image (see column 24, lines 42-55), comprising:

receiving an image from the image capture device coupled to the portable electronic device (see column 24, lines 24-26);

managing the display of the image on a display screen constituent to the portable electronic device (see column 24, lines 24-26).

The Eck reference does not disclose that the image management program performs the steps of:

managing the display of a graphical user interface on the display screen, the user interface comprising at least one interactive icon, interactive icon being capable of executing a routine within the program upon activation of said icon by a user.

The Eck reference discloses that the paging management program discloses:

managing the display of a graphical user interface on the display screen (see column 24, lines 30-35, figures 7 and 8A-8H, and column 10, lines 55-64: When transferring images in messaging mode a graphical user interface is displayed), the user interface comprising at least one interactive icon (see column 11, lines 3-6), interactive icon being capable of executing a routine within the program upon activation of said icon by a user (see column 11, lines 26-40).

The Lourette reference discloses an image management program for a camera controlled by a computer wherein managing the display of a graphical user interface on the display screen (see column 21, lines 1-9), the user interface comprising at least one interactive icon (see figure 20, elements 24-32), interactive icon being capable of

executing a routine within the program upon activation of said icon by a user (see column 21, lines 6-9).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016 to have managing the display of a graphical user interface on the display screen, the user interface comprising at least one interactive icon, interactive icon being capable of executing a routine within the program upon activation of said icon by a user, I order to make the image capture program user interface easier to use.

In regard to claim 2, Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, discloses the machine-readable medium of claim 1. The Lourette reference further comprising controlling one or more operational modes of the image capture device (see figure 20, element 23 and column 6, lines 7-8).

In regard to claim 3, Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, discloses the machine-readable medium of claim 1. The Eck reference further comprising transmitting said image from said potable electronic device to a remote device (see column 23, lines 36-41).

In regard to claim 4, Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, discloses the machine-readable medium of claim 1. The Eck reference discloses wherein said program is transferred from the image capture device to the electronic device for execution (see column 24, lines 43-55 and column 3, line 55 to column 4, line 20: It is inherent the image control program is transferred to the CPU just as a game program in order to execute the program).

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In regard to claim 5 - 6, Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, discloses the system of claim 1. The Eck reference discloses wherein the program is transferred from a ROM to the portable electronic device for execution (see column 24, lines 43-55 and column 3, line 55 to column 4, line 20: It is inherent the image control program is transferred to the CPU just as a game program in order to execute the program).

The Eck and Lourette references do not disclose that the ROM is a magnetic or optical medium.

The well known in the art statement in the Official Notice taken in the last office action that magnetic and optical mediums are used in ROMs, in order to be non-volatile storage to save the program when the camera is turned off is taken to be prior art because the applicant did not traverse the examiner's assertion.

It would have been obvious to a person skilled in the art, at the time of invention, to have been motivated to modify Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, to have the program transferred from a magnetic medium or optical medium to the portable electronic device, in order to execute the program on the electronic device.

In regard to claim 7, Eck et al., US 6,716,103, in view of Lourette et al., US 5,978,016, discloses the machine-readable medium of claim 1. The Eck reference discloses wherein said portable electronic device is a wireless device (see column 3, lines 19-33 and column 4, lines 39-45).

**5. Claims 21 - 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eck et al., US 6,716,103, and in view of Wakabayashi et al., US 5,097,285.**

In regard to claims 21, 22, and 23, Eck et al., US 6,716,103, discloses the method of claim 19. The Eck reference does not disclose that the image is captured by said camera by programming an automatic timer to capture said image within a user-specified time and to capture a user-specified number of images at a user-specified time interval.

Wakabayashi et al., US 5,097,285, discloses a camera with a self-timer (see column 1, lines 26-28). In self-timer mode the user can specify the number of pictures to be taken when the timer expires by pressing the timer button that number of times (see column 3, lines 1-7). The user can specify whether they want the time of the second and following pictures to be longer than the time of the first picture (see column 3, lines 7-13).

It would have been obvious to a person skilled in the art, at the time of invention, to have been motivated to modify Eck et al., US 6,716,103, in view of Wakabayashi et al., US 5,097,285, to have a self timer mode wherein the image is captured by said camera by programming an automatic timer to capture said image within a user-specified time and to capture a user-specified number of images at a user-specified time interval, in order to have time to move from the camera to the position to be photographed as taught by Wakabayashi (see column 3, lines 10-12).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanaka et al., US 6,435,969, discloses portable game machine having a image capture device.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on 571-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs



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